



## County Auditor Cerro Gordo County Courthouse

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Matt Schultz, Iowa Secretary of State  
Lucas Building  
321 E 12th St  
Des Moines IA 50319

Dear Secretary Schultz:

I am writing regarding a problem with non-felons and ex-felons being included on the statewide list of felons.

### Background

In the November 6, 2012 presidential election, eight voters in Cerro Gordo County each had their eligibility to register and vote challenged by the precinct election officials, based on possible matches with persons on the then-current statewide list of felons. In each case, the voter was registering at the polls on Election Day, and in each case the voter cast a provisional ballot. Pursuant to Iowa law, decisions to count or not count provisional ballots are made by the bipartisan absentee and special voters precinct board (absentee board).

The absentee board was scheduled to meet on Tuesday, November 13<sup>th</sup>, and prior to that meeting I directed Deputy Auditor Tracie Siemers to confirm with your office that each of the eight voters was in fact on the official list of felons. She received such confirmation, and we presented the information to the absentee board along with our recommendation that each of the eight provisional ballots be rejected. The absentee board rejected the ballots, and my office mailed letters to each voter stating the voter's provisional ballot had been rejected and the voter's registration cancelled.

Subsequently, I met with and presented the information to the Cerro Gordo County Attorney, for consideration by that office of possible violations of law. I also offered my personal opinion since none of the provisional ballots had been counted, that none of the eight voters should be prosecuted. My argument was based on changes in gubernatorial policies regarding restoration of voting rights, which has caused some confusion as to whether a person convicted of a felony may have had his/her voting rights restored. At the same time, I complied with your request to forward the same information to your office, for investigation by a DCI agent.

## **Problem**

I received an initial phone call in mid-November 2013 from DCI Agent Matt Anderson, and exchanged email messages and participated in additional phone calls over the next several weeks. In all exchanges, Agent Anderson was professional and courteous. He requested copies of information on the above eight voters, along with information on three other voters, all of which we provided. Agent Anderson conducted investigations for each of the voters and forwarded his findings and conclusions to the County Attorney. For each of the eight voters, the County Attorney followed Agent Anderson's recommendation and declined to prosecute.

On December 10<sup>th</sup>, I received an email message and phone call from Agent Anderson specifically regarding three of the eight voters. In these communications, Agent Anderson stated he found the three voters should not have been on the list of felons. In one case an individual was charged with a felony but not convicted. In a second, the individual had two issues; his first felony conviction was resolved under Governor Vilsack's executive order, and a second felony charge was reduced to a misdemeanor charge. In the third case, the individual's felony conviction was also resolved under Governor Vilsack's executive order.

I asked Agent Anderson if I could have done a similar investigation to determine the specifics and timing of charges and convictions for an individual. He said it would take someone with his level of access and expertise to find and compile the information. I told Agent Anderson I appreciated the follow-up, and would be sending a letter to each of the three voters with an apology stating the information upon which their ballots were rejected was wrong, and that we have restored the person's voter registration status for future elections. Subsequently, I confirmed with your office that each of the three voters' names had also been removed from the list of felons, in order to avoid similar problems in future elections.

## **Personal reaction and request**

I enjoy my job, and take pride in serving as county auditor in Iowa, where we have a strong history of fair and impartial elections. One thing I dislike intensely is when I have to send a letter to a voter, notifying the voter his or her ballot was rejected. To have rejected a ballot based on an error or incorrect information is troubling, to say the least.

Setting aside that reaction, the question is clear: How do we accurately and efficiently prevent a person from voting, when that person's rights have been taken away, while at the same time doing no harm to any person who has the right to register and vote. I believe there are two administrative approaches, and both should be pursued simultaneously.

The first approach is broad and proactive and consists in analyzing how the list of felons is compiled and maintained, and at what point that process failed for each of the three voters whose names were incorrectly included. It is possible there are additional errors among the 46,000 persons listed, and identifying patterns of errors would be the first step in finding and correcting those errors.

The second approach is narrow and reactive in nature, and would consist of having the DCI investigate voters who have been identified as felons, after the day of the election, but prior to the meeting of the absentee board. This would allow any necessary specific corrections to be determined and conveyed to the absentee board so that provisional ballots would not be incorrectly rejected.

I hope this information is helpful. Please contact me if you have any questions or concerns.

Sincerely,

Kenneth W. Kline  
Cerro Gordo County Auditor

cc: Carlyle Dalen, Cerro Gordo County Attorney  
Matt Anderson, Iowa Division of Criminal Investigation